

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 844

Introduced by Beutler, 28; Dierks, 40; Schmitt, 41

Read first time January 20, 1999

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to counties; to amend sections 23-114.03 and
2 23-174.10, Reissue Revised Statutes of Nebraska, and
3 section 23-114, Revised Statutes Supplement, 1998; to
4 provide for interim zoning measures and powers; to repeal
5 the original sections; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-114, Revised Statutes Supplement,
2 1998, is amended to read:

3 23-114. (1) The county board shall have power: (a) To
4 create a planning commission with the powers and duties set forth
5 in sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to
6 23-174, 23-174.02, 23-373, and 23-376; (b) to make, adopt, amend,
7 extend, and implement a county comprehensive development plan; ~~and~~
8 (c) to adopt a zoning resolution, which shall have the force and
9 effect of law; and (d) to adopt interim zoning measures.

10 (2) The zoning resolution may regulate and restrict: (a)
11 The location, height, bulk, number of stories, and size of
12 buildings and other structures, including tents, cabins, house
13 trailers, and automobile trailers; (b) the percentage of lot areas
14 which may be occupied; (c) building setback lines; (d) sizes of
15 yards, courts, and other open spaces; (e) the density of
16 population; (f) the uses of buildings; and (g) the uses of land for
17 agriculture, forestry, recreation, residence, industry, and trade,
18 after considering factors relating to soil conservation, water
19 supply conservation, surface water drainage and removal, or other
20 uses in the unincorporated area of the county.

21 (3)(a) The county board shall not adopt or enforce any
22 zoning resolution or regulation which prohibits the use of land for
23 a proposed residential structure for the sole reason that the
24 proposed structure is a manufactured home if such manufactured home
25 bears an appropriate seal which indicates that it was constructed
26 in accordance with the standards of the Uniform Standard Code for
27 Manufactured Homes and Recreational Vehicles, the Nebraska Uniform
28 Standards for Modular Housing Units Act, or the United States

1 Department of Housing and Urban Development. The county board may
2 require that a manufactured home be located and installed according
3 to the same standards for foundation system, permanent utility
4 connections, setback, and minimum square footage which would apply
5 to a site-built, single-family dwelling on the same lot. The
6 county board may also require that manufactured homes meet the
7 following standards:

8 (i) The home shall have no less than nine hundred square
9 feet of floor area;

10 (ii) The home shall have no less than an eighteen-foot
11 exterior width;

12 (iii) The roof shall be pitched with a minimum vertical
13 rise of two and one-half inches for each twelve inches of
14 horizontal run;

15 (iv) The exterior material shall be of a color, material,
16 and scale comparable with those existing in residential site-built,
17 single-family construction;

18 (v) The home shall have a nonreflective roof material
19 which is or simulates asphalt or wood shingles, tile, or rock; and

20 (vi) The home shall have wheels, axles, transporting
21 lights, and removable towing apparatus removed.

22 (b) The county board may not require additional standards
23 unless such standards are uniformly applied to all single-family
24 dwellings in the zoning district.

25 (c) Nothing in this subsection shall be deemed to
26 supersede any valid restrictive covenants of record.

27 (4) For purposes of this section, manufactured home shall
28 mean (a) a factory-built structure which is to be used as a place

1 for human habitation, which is not constructed or equipped with a
2 permanent hitch or other device allowing it to be moved other than
3 to a permanent site, which does not have permanently attached to
4 its body or frame any wheels or axles, and which bears a label
5 certifying that it was built in compliance with National
6 Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280
7 et seq., promulgated by the United States Department of Housing and
8 Urban Development, or (b) a modular housing unit as defined in
9 section 71-1557 bearing a seal in accordance with the Nebraska
10 Uniform Standards for Modular Housing Units Act.

11 (5) Special districts or zones may be established in
12 those areas subject to seasonal or periodic flooding, and such
13 regulations may be applied as will minimize danger to life and
14 property.

15 (6) The powers conferred by this section shall not be
16 exercised within the limits of any incorporated city or village nor
17 within the area over which a city or village has been granted
18 zoning jurisdiction and is exercising such jurisdiction. At such
19 time as a city or village exercises control over an unincorporated
20 area by the adoption or amendment of a zoning ordinance, the
21 ordinance or amendment shall supersede any resolution or regulation
22 of the county.

23 Sec. 2. Section 23-114.03, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 23-114.03. ~~Zoning~~ (1) Except as provided in subsection
26 (2) of this section, zoning regulations shall be adopted or amended
27 by the county board only after the adoption of the county
28 comprehensive development plan by the county board and the receipt

1 of the planning commission's specific recommendations. Such zoning
2 regulations shall be consistent with the comprehensive development
3 plan and designed for the purpose of promoting the health, safety,
4 morals, convenience, order, prosperity, and welfare of the present
5 and future inhabitants of Nebraska, including, among others, such
6 specific purposes as:

- 7 ~~(1)~~ (a) Developing both urban and nonurban areas;
- 8 ~~(2)~~ (b) Lessening congestion in the streets or roads;
- 9 ~~(3)~~ (c) Reducing the waste of excessive amounts of roads;
- 10 ~~(4)~~ (d) Securing safety from fire and other dangers;
- 11 ~~(5)~~ (e) Lessening or avoiding the hazards to persons and
12 damage to property resulting from the accumulation or runoff of
13 storm or flood waters;
- 14 ~~(6)~~ (f) Providing adequate light and air;
- 15 ~~(7)~~ (g) Preventing excessive concentration of population
16 and excessive and wasteful scattering of population or settlement;
- 17 ~~(8)~~ (h) Promoting such distribution of population, such
18 classification of land uses, and such distribution of land
19 development as will assure adequate provisions for transportation,
20 water flowage, water supply, drainage, sanitation, recreation, soil
21 fertility, food supply, and other public requirements;
- 22 ~~(9)~~ (i) Protecting the tax base;
- 23 ~~(10)~~ (j) Protecting property against blight and
24 depreciation;
- 25 ~~(11)~~ (k) Securing economy in governmental expenditures;
- 26 ~~(12)~~ (l) Fostering the state's agriculture, recreation,
27 and other industries;
- 28 ~~(13)~~ (m) Encouraging the most appropriate use of land in

1 the county; and

2 ~~(14)~~ (n) Preserving, protecting, and enhancing historic
3 buildings, places, and districts.

4 Within the area of jurisdiction and powers established by
5 section 23-114, the county board may divide the county into
6 districts of such number, shape, and area as may be best suited to
7 carry out the purposes of this section and regulate, restrict, or
8 prohibit the erection, construction, reconstruction, alteration, or
9 use of nonfarm buildings or structures and the use, conditions of
10 use, or occupancy of land. All such regulations shall be uniform
11 for each class or kind of land or buildings throughout each
12 district, but the regulations in one district may differ from those
13 in other districts. An official map or maps indicating the
14 districts and regulations shall be adopted, and within fifteen days
15 after adoption of such regulations or maps, they shall be published
16 in book or pamphlet form or once in a legal newspaper published in
17 and of general circulation in the county or, if none is published
18 in the county, in a legal newspaper of general circulation in the
19 county. Such regulations shall also be spread in the minutes of
20 the proceedings of the county board and such map or maps filed with
21 the county clerk. Nonfarm buildings are all buildings except those
22 buildings utilized for agricultural purposes on a farmstead of
23 twenty acres or more which produces one thousand dollars or more of
24 farm products each year.

25 (2) If a county intends to adopt a county comprehensive
26 development plan or zoning resolution, after notice and hearing the
27 county board may adopt interim zoning measures by resolution
28 without first having adopted a county comprehensive development

1 plan at any time prior to January 1, 2000. Such interim measure
2 may include an interim zoning resolution, map, or regulation. Such
3 interim zoning resolution, map, or regulation is effective (a) for
4 two years from the date of adoption or (b) until the date a final
5 zoning resolution, map, or regulation is adopted, whichever occurs
6 first. Such interim measures are valid only if the county is
7 proceeding in good faith to establish a planning commission and
8 adopt a comprehensive development plan or zoning resolution while
9 the interim zoning measures are in effect. Good faith shall be
10 established by adopting a comprehensive development plan prior to
11 January 1, 2001, and establishing a planning commission by July 1,
12 2000. If a county does not adopt a comprehensive development plan
13 and a permanent zoning resolution within the two-year effective
14 period after an interim zoning measure is adopted, such county
15 shall not enact another interim zoning measure. Notice of the
16 required hearing shall be given in a newspaper of general
17 circulation in the county at least one time and at least ten days
18 prior to the hearing. A copy of the proposed interim zoning
19 measures, including any resolution, map, or regulations shall be
20 available for inspection during regular business hours at the
21 office of the county clerk at least ten days prior to the hearing.

22 Sec. 3. Section 23-174.10, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 23-174.10. In any county which has adopted county zoning
25 regulations or interim zoning measures, the county board, by
26 resolution, may make regulations as may be necessary or expedient
27 to promote the public health, safety, and welfare, including
28 regulations to prevent the introduction or spread of contagious,

1 infectious, or malignant diseases; to provide rules for the
2 prevention, abatement, and removal of nuisances, including the
3 pollution of air and water; and make and prescribe regulations for
4 the construction, location, and keeping in order of all
5 slaughterhouses, stockyards, warehouses, sheds, stables, barns,
6 commercial feedlots, dairies, junk and salvage yards, or other
7 places where offensive matter is kept, or is likely to accumulate.
8 Such regulations shall be not inconsistent with the general laws of
9 the state and shall apply to all of the county except within the
10 limits of any incorporated city or village, and except within the
11 unincorporated area where a city or village has been granted zoning
12 jurisdiction and is exercising such jurisdiction.

13 Sec. 4. Original sections 23-114.03 and 23-174.10,
14 Reissue Revised Statutes of Nebraska, and section 23-114, Revised
15 Statutes Supplement, 1998, are repealed.

16 Sec. 5. Since an emergency exists, this act takes effect
17 when passed and approved according to law.